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Letter dated 13 February 2001 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

I have the honour to refer to the letter dated 21 December 2000 from the Permanent Representative of the Republic of Turkey to the United Nations addressed to you and circulated as document A/55/715-S/2000/1231 of 22 December 2000.

The Republic of Cyprus has no desire to engage in polemics. Instead, we believe that the primary focus of all parties involved should be on intensifying the efforts for finding a just and workable solution of the Cyprus problem, on the basis of United Nations resolutions. We regret, in this respect, that after five rounds of proximity talks, under your auspices, Mr. R. Denktash, the Turkish Cypriot leader, supported by Turkey, refuses to participate in another round. However, in response to the letter of the Permanent Representative of Turkey, I feel compelled to put on record the position of my Government.

The letter of the Permanent Representative of Turkey, by selective citations and omission of events, in another obvious effort at gaining recognition of the secessionist entity in the occupied territories, purports to shed fresh light on the passage of Security Council resolution 186 (1964) of 4 March 1964.

The contemporary documents (most notably those from the archives of the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, PREM 11/4704-4708) prove beyond any doubt that Security Council resolution 186 (1964) was predicated solely on the consent of the then Government of Cyprus insofar as concerns the stationing of any force on the territory of the Republic of Cyprus. That Government had been abandoned by its Turkish Cypriot members since the last week of December 1963, in pursuit of Turkey's policy of partition of Cyprus, which was to be accompanied by a Turkish military intervention allegedly based on article IV of the Treaty of Guarantee of 1960.

Far from it being President Makarios or his Government who asserted that the Constitution was invalid and "dead and buried", it was the Turkish-Cypriot Vice-President, Fazil Kucuk, who, on 30 December 1963, declared

> "The Cyprus Constitution is dead. There is no possibility of the Turkish Community living together with the Greek Community" (*The Times*, 31 December 1963).

Indeed, Dr. Kucuk and Mr. Denktash (then President of the Turkish Communal Chamber under the 1960 Constitution) had, on 29 December 1963, announced that "the Republic is dead" (*Special News Bulletin* No. 5, issued by the Turkish Communal Chamber, Nicosia, 29 December 1963). On 4 January 1964, Dr. Kucuk declared "The Constitution of Cyprus no longer existed" (*The New York Times*, 5 January 1964) and confirmed thereafter that the Turkish Cypriot political leadership was "going ahead with the creation of a separate administration ..." (Reuters

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report in *Le Monde*, 10 January 1964, reprinted in *Cyprus Mail*, 11 January 1964). He repeated

> "I no longer consider myself the Vice-President of Cyprus because a legitimate government no longer exists in Cyprus" (*Special News Bulletin* No. 16, 11 January 1964).

In fact, the Government of Cyprus continued in existence, operating in accordance with the 1960 Constitution, subject to certain subsequent and temporary amendments, which were essential for the continued functioning of governmental institutions. The doctrine of necessity, accepted in many jurisdictions, was held by the Cyprus Supreme Court in 1964 to justify such limited measures. It should be added that the Turkish Cypriot judges continued to sit under the Constitution until mid-1966.

The 1960 Constitution operates to this day, subject to necessary temporary modifications. The Turkish Cypriot community would be welcome to return to the 1960 institutions should it indicate a wish to do so. Indeed, such an invitation has been extended by successive Presidents of Cyprus, but has always been rejected. In particular, at the time when resolution 186 (1964) was being formulated, the Turkish Cypriot political leadership refused to respond to any suggestion that they even express willingness to return to the Government.

The Acting High Commissioner of the United Kingdom suggested to Dr. Kucuk that he

> "should issue a statement to the effect that Turkish Cypriots had left their homes only because of the threat to their lives and property and that if that threat was removed they would resume their place in the Cyprus Administration".

On hearing of this, the Minister for Foreign Affairs of Turkey, Mr. Erkin, summoned the British Ambassador in Ankara, taking

> "a grave view of this conversation. It amounted to asking the Turkish Cypriots, and indeed the Turkish Government, to give up their aim of Federation based on geographical separation of the two communities. There could be no question of doing this."

The Ambassador of the United Kingdom then enquired

> "if the Turks could see their way to adopting a more flexible attitude of cooperation. I asked whether Mr. Erkin was now saying that Turkish Cypriots were leaving their homes not only because of the threat to their lives and property but because of a deliberate policy of separation. He said that separation was certainly their policy and they could not renounce it."

Resolution 186 (1964) has been adopted following long and arduous consultations. During these consultations, and commenting on a draft resolution which did not reflect the Cyprus Government's consent, the Cabinet Secretary pointed out to the British Prime Minister:

> "If the international force is not to constitute an illegal invasion of the Island, it must not merely be invited by the local Government (which is, rightly, our first objective) but must also be given by that Government authority to do whatever is necessary to fulfil its purposes." (Minute to Prime Minister, 5 February 1964, (Sir) Burke Trend: PREM 11/4704).

Moreover, Mr. Lester Pearson, Prime Minister of Canada, when asked if Canada would participate in a force, told the British Prime Minister that Canada would not give a final decision on proposals for peacekeeping in Cyprus

> "until there is clarification of the terms on which the Cyprus Government is ready to receive an international force" (High Commission for Canada to British Prime Minister, 7 February 1964, in PREM 11/4705).

Resolution 186 (1964) took into account an "aide-mémoire on a new approach to the situation in Cyprus", presented by the Secretary-General (see Sir Patrick Dean to Foreign Office, telegram No. 295, 17 February 1964, PREM 11/4705), which required the Cyprus Government's consent both to the establishment of a force and to the appointment of a mediator. The resolution also called upon all Member States to respect the independence and territorial integrity of Cyprus. The resolution, prepared by the non-permanent members of the Security Council, did not adopt the proposal for endorsement of rights of

unilateral military intervention, something which Turkey was advocating.

In the text, the consent required was to be that of "the Cyprus Government" for a United Nations peacekeeping force in Cyprus (para. 4). The role for communities was quite distinct and different: they and their leaders were called upon to show the utmost restraint (para. 3); and they were to be the subject of the best endeavours of a mediator (appointed with the consent of all four Governments) for

> "the purpose of promoting a peaceful solution and an agreed settlement ... having in mind the well-being of the people as a whole".

As Mr. Bernardes, President of the Security Council at the time, explained, the resolution, after careful consideration and negotiation, was predicated upon the consent of "the Government of Cyprus" on whose territory the force would be deployed (S/PV.1102, *Official Records of the Security Council, Nineteenth Year*, 1102nd meeting, 4 March 1964, para. 17). The Turkish Ambassador's views were certainly not accepted by the Security Council and not adopted by members in any statement made to the Council.

The Permanent Representative of Turkey in his letter, further states that when the Security Council adopted resolution 186 (1964), it was "only natural" to assume that the then Government of Cyprus was functioning in accordance with the Constitution, i.e. with the participation of both communities. In reality, all Council members were aware of the refusal, since the last week of December 1963, of Turkish Cypriot political representatives to participate in the Cyprus Government.

It is appropriate to add that the contemporary documents belie the old canard that Turkish Cypriots were forcibly ousted from office and the assertion they were thereafter refused any opportunity to participate again. The Turkish Cypriot leadership indicated willingness on four occasions, to participate only in order to secure specific political advantages — to be followed by continued abandonment of the Constitution. To this day, Turkish Cypriots are welcome to return to operate 1960 Constitution institutions. Offers to make arrangements for this by successive Cyprus Presidents have been rejected since they are incompatible with Turkish expansionist aims against Cyprus. These aims become more obvious if one recalls the recent statement by the Turkish Prime Minister, Mr. B. Ecevit, made to the Istanbul daily *Hurriyet* on 31 December 2000, the last one in a very long list of such statements emanating over many decades from Ankara. Mr. Ecevit stated the following:

> "Even if Turkish Cypriots agree — and they would not — to the transfer of the Turkish Republic of Northern Cyprus to someone else we would not consent to it. More than anyone else, influential circles and opinion makers at home must realize that Cyprus is not a problem on its own and that it is also a matter of security for Turkey."

Furthermore, the Turkish Permanent Representative claims that there are "inhuman embargoes over Turkish Cypriots". The truth is that the restrictions taken by the Government constitute either compliance with Cyprus' international obligations and with decisions of European courts or aim at protecting the right to property of the displaced persons or in general to counter efforts by the secessionist entity to gain recognition in contravention to Security Council resolutions. Cooperation in assuring benefits to the Turkish Cypriot population of the Turkish-occupied area has frequently been proposed by the Cyprus Government. Unfortunately such beneficial measures have always been rejected by the Turkish Cypriot leadership on the basis that they would imply recognition of the Government of the Republic of Cyprus.

As to the Turkish Permanent Representative's ludicrous claim about the "blocking", by the Government of Cyprus, of the "realization of a balanced outcome based on the equal status of the two parties in the three decades of negotiations", I would like to point out the following.

The "blocking" has been the handiwork of the Republic of Turkey by way of coordinated delaying tactics with the leader of the Turkish Cypriot community, as evidenced by repeated changes in the basis of negotiations and the introduction of new conditions wherever negotiations appeared to be making progress (see for example Security Council resolution 789 (1992), 25 November 1992, paras. 5 and 6).

As to the reference for "equal rights" of the "Turkish Cypriot people" it should be noted that "the people of Cyprus", according to the Constitution, is

comprised of the two Cypriot communities and everyone is equal before the law.

It will be observed that the Security Council has never endorsed rights of either "the Turkish Cypriot people" or "the Greek Cypriot people". The rights are those of "the people of Cyprus". Indeed, the attempts in 1990 and 1991 to raise questions of self-determination and sovereignty of "the Turkish Cypriot people" led to the Council's call in Security Council resolution 716 (1991), in paragraph 5, "to adhere to principles set out by the Security Council as a framework without introduction of concepts at variance with them".

In the course of continuing inter-communal talks under the good offices mission, procedural criteria for discussions evolved. In pursuing a solution, the leaders of the two communities were to cooperate "on an equal footing" (a time-honoured formula and one on which all have publicly agreed since General Assembly resolution 3212 (XXIX) of 1 November 1974, endorsed by Security Council resolution 367 (1975) on 12 March 1975). Subsequently, certain substantive positions were adopted by the Security Council. In this connection, Security Council resolution 716 (1991) of 11 October 1991, is relevant. It provides, in paragraph 4, that

> "its position on the solution to the Cyprus problem is based on one State of Cyprus comprising two politically equal communities as defined by the Secretary-General in the eleventh paragraph of annex I to his report dated 8 March 1990 (S/21183)".

Thus, equality relates to the negotiating procedure and to certain substantive constitutional arrangements listed by the Secretary-General of the United Nations, which are to be included in any new constitutional settlement.

Finally, there has never been any acceptance (whether in the 1960 Constitution, by the Security Council, or by the agreements made in the course of the prolonged negotiations) by anyone other than Turkey and the political leaders of her subordinate local administration (preceded by the Turkish Cypriot leadership of the period 1964 to 1974) that the 1960 Constitution and the Republic of Cyprus have come to an end and that there should, as successors to that Republic, be two peoples, Turkish Cypriot and Greek Cypriot, with equal rights to succession. In contrast, all United Nations resolutions either expressly call for or reaffirm calls for all States to respect the sovereignty, independence and territorial integrity of the Republic of Cyprus (e.g. Security Council resolution 1251 (1999) of 29 June 1999, reaffirmed by Security Council resolution 1331 (2000) of 13 December 2000).

Indeed the Government of the Republic of Cyprus is internationally recognized by all States and international organizations, while the secessionist entity established in the occupied territory and maintained by the Turkish military force has been declared illegal by Security Council resolutions 541 (1983) and 550 (1984).

I would greatly appreciate it if the text of the present letter were circulated as a document of the General Assembly, under item 64, and of the Security Council.

(*Signed*) Sotirios **Zackheos**
Ambassador
Permanent Representative